SUMMARY OF EXAMINER INTERVIEW

Applicants would like to thank the Examiner for granting an interview on October 15, 2007. During the Interview the meaning of "clinical outcomes data" in claims 1, 10, and 19 was discussed. Applicants agreed to consider defining clinical outcomes data within the claims. The amendments made herein define patient outcomes data in claims 1, 10, and 19 as one or more patient outcomes that resulted from using the clinical supplies.

REMARKS

Applicants respectfully request reconsideration of the present Application in light of the amendments herein to claims 1, 10, and 19. Care has been exercised to introduce no new matter. Claims 1-27 are pending and are in condition for allowance.

Rejections based on 35 U.S.C. § 102

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdeggal Brothers v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 2 USPQ 2d 1913, 1920 (Fed. Cir. 1989). *See also*, MPEP § 2131.

Claims 1-27 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Number 5,682,728 to DeBusk, et al. (hereinafter the "DeBusk reference"). As the DeBusk reference fails to describe, either expressly or inherently, each and every element set forth in the rejected claims, Applicants respectfully traverses this rejection, as hereinafter set forth.

Independent claim 1, as amended herein, recites a system for managing clinically related supply procurement according to outcomes. The system includes a first interface to receive patient supply data captured from at least one clinically related site, the patient supply data comprising clinical supplies used to treat one or more patients. The system also includes a second interface to receive clinical outcomes data that describes one or more patient outcomes that resulted from using the clinical supplies from the at least one clinically related site. The

system further includes an analytic engine. The analytic engine communicates with the first interface and the second interface to generate comparative clinical supply reports based at least on the clinical outcomes data. Support for the amendments to claim 1 are found in paragraph [0036] of the as-filed specification.

The DeBusk reference, on the other hand, describes the management of consumable medical supplies by creating bills of material associated with care events within a clinical pathway. *See* DeBusk reference at col. 2 lines 29-37. A bill of materials representing those medical supplies that have been identified as "to be used" for a given care event is generated and supplies are aggregated into supply bundles at a plurality of locations and delivered to the end-user of the aggregated supplies. *See id.* at col. 2 line 50–col. 3, line 2; col. 3, line 34. The DeBusk reference also discloses anticipating supply usage based upon historical records relating to the frequency of occurrence of given care events at a particular facility and/or aggregated facility usage of common medical supplies over time. *See id.* at col. 2 line 59–col. 6, line 13.

However, the DeBusk reference fails to describe, either expressly or inherently, an "interface to receive **clinical outcomes data** that describes one or more **patient outcomes that resulted from using the clinical supplies**" or an "analytic engine communicating with the first interface and the second interface to generate comparative clinical supply reports **based at least on the clinical outcomes data.**" Claim 1 has been amended to describe clinical outcomes data as **patient outcomes that resulted** from using the clinical supplies. Thus, the clinical outcomes data describes the outcome or result of the patient's treatment based on data obtained **after** the treatment with clinical supplies. This is in contrast to the DeBusk reference which focuses on the supply of medical supplies, but not on the result on the patient of using the

medical supplies. It is stated in the Office Action that clinical outcomes data is described at column 4, lines 30-50 of the DeBusk reference. *See*, Office Action at p. 3, ¶ 6. It is respectfully submitted, however, that the referenced portion of the DeBusk reference merely describes a bill of materials that might be generated for a particular medical procedure. As set forth above, a bill of materials represents a list of medical supplies that are required for a particular care event in a clinical pathway. The bill of materials is anticipatory in nature in that it helps prepare for a medical procedure but does not capture patient outcomes that resulted from using the clinical supplies.

In the final Office Action dated August 8, 2007, essentially the same list of medical supplies was relied upon to teach the patient supply data, the clinical outcomes data, **and** the comparative report of claim 1. *See* final Office Action at pp. 2-3. Applicants respectfully submit that there is a clear difference between clinical outcomes data and clinical supplies data. As recited in amended claim 1, the clinical outcomes data received in the second interface describes the result of the use of clinical supplies that is received as clinical supply data in the first interface. Thus, two distinct sets of data are received. Accordingly, Applicants assert that the DeBusk reference does not describe receiving clinical outcome data that describes patient outcomes that resulted from using the clinical supplies.

As the DeBusk reference fails to describe, either expressly or inherently, each and every element set forth in claim 1, it is respectfully submitted that the DeBusk reference does not anticipate independent claim 1. Each of claims 2-9 depends, either directly or indirectly, from independent claim 1 and define further patentable features. For example, claim 4 recites a system according to claim 1, wherein the clinical outcomes data comprises at least one of patient mortality data, patient morbidity data, patient ambulatory data, patient infection data, patient

prescription data, patient length of stay data, patient condition data, and patient readmittance data. It is stated in the final Office Action that "usage per length of stay" is found in col. 6, lines 1-15 of the DeBusk reference. *See* final Office Action p. 3. The section of the DeBusk reference relied upon does not teach "usage per length of stay". To the contrary, this section of the DeBusk reference describes tracking the amount of supplies used over time in a hospital to anticipate future demand for a medical supply. This is unrelated to tracking the patient length of stay that resulted from using the clinical supplies. Accordingly, the DeBusk reference does not anticipate claim 4.

Accordingly, it is respectfully submitted that claims 2-9 are not anticipated by DeBusk for at least the above-cited reasons. As such, withdrawal of the 35 U.S.C. § 102(b) rejection of claims 1-9 is respectfully requested.

Independent claim 10, as amended herein, recites a method for managing clinically related supply procurement according to outcomes. The method includes receiving patient supply data captured from at least one clinically related site. The patient supply data comprises clinical supplies used to treat one or more patients. The method also includes receiving clinical outcomes data that describes one or more patient outcomes that resulted from using the clinical supplies from the at least one clinically related site. The method further includes generating comparative clinical supply reports based at least on the clinical outcomes data. Support for the amendments to claim 1 are found in paragraph [0036] of the as-filed specification.

Claim 10 has been amended in a manner similar to claim 1 to clarify the definition of clinical outcomes data. For reasons similar to those given with reference to claim 1, it is respectfully submitted that the DeBusk reference fails to describe, either expressly or

inherently, managing clinically related supply procurement according to outcomes, as recited in independent claim 10. More particularly, the DeBusk reference fails to describe, either expressly or inherently, the steps of receiving "**clinical outcomes data** that describes one or more **patient outcomes that resulted from using the clinical supplies**" or "generating comparative clinical supply reports **based at least on the clinical outcomes data.**" In fact, the DeBusk reference does not address tracking or utilizing clinical outcomes data at all.

As the DeBusk reference fails to describe, either expressly or inherently, each and every element recited in claim 10, it is respectfully submitted that the DeBusk reference does not anticipate independent claim 10. Each of claims 11-18 depends, either directly or indirectly, from independent claim 10. Accordingly, each of these claims is not anticipated by the DeBusk reference for at least the above-cited reasons. As such, withdrawal of the 35 U.S.C. § 102(b) rejection of claims 10-18 is respectfully requested.

Independent claim 19, as amended herein, recites one or more computer-readable media having computer-executable instructions embodied thereon for performing a method for managing clinically related supply procurement according to outcomes. The method includes receiving patient supply data captured from at least one clinically related site. The patient supply data comprises clinical supplies used to treat one or more patients. The method also includes receiving clinical outcomes data that describes one or more patient outcomes that resulted from using the clinical supplies from the at least one clinically related site. The method further includes generating a comparative clinical supply report based at least on the clinical outcomes data and storing the comparative clinical supply report in computer accessible memory. Support for the amendments to claim 1 are found in paragraph [0036] of the as-filed specification.

Amendments, similar to those made to claims 1 and 10, have been made to claim 19 to clarify the meaning of clinical outcomes. It is respectfully submitted that the DeBusk reference fails to describe, either expressly or inherently, managing clinically related supply procurement according to outcomes, as recited in amended independent claim 19. More particularly, the DeBusk reference fails to describe, either expressly or inherently, a computer readable media with computer readable instructions "to receive **clinical outcomes data** that describes one or more **patient outcomes that resulted from using the clinical supplies**" or "generating comparative clinical supply reports **based at least on the clinical outcomes data.**" In fact, the DeBusk reference does not describe tracking or utilizing clinical outcomes data at all.

As the DeBusk reference fails to describe, either expressly or inherently, each and every element recited in amended independent claim 19, it is respectfully submitted that the DeBusk reference does not anticipate independent claim 19, as amended herein. Each of claims 20-27 depends, either directly or indirectly, from independent claim 19. Accordingly, each of these claims is not anticipated by the DeBusk reference for at least the above-cited reasons. As such, withdrawal of the 35 U.S.C. § 102(b) rejection of claims 19-27 is respectfully requested.

CONCLUSION

For at least the reasons stated above, claims 1-27 are now in condition for allowance. Applicants respectfully request withdrawal of the pending rejections and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned – 816-474-6550 or ddevers@shb.com (such communication via email is herein expressly granted) – to resolve the same. It is believed that no fee is due, however, the Commissioner is hereby authorized to charge any amount required to Deposit Account No. 19-2112.

Respectfully submitted,

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